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PATENT **13333US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Köhler *et al.*	Examiner:	Stephen J. Kalafut
Serial No.:	09/973,193	Group Art Unit:	1745
Filed:	October 10, 2001		
For:	*"A Process for producing a membrane electrode assembly for fuel cells"*		
Customer No.:	23719		

Kalow & Springut LLP
488 Madison Avenue, 19th Floor
New York, New York 10022

August 30, 2005

Via Express Mail
Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW A NOTICE OF ABANDONMENT OR, IN THE ALTERNATIVE, PETITION TO REVIVE AN UNAVOIDABLY/ UNINTENTIALLY ABANDONED APPLICATION

Sir:

Applicants hereby petition the United States Patent and Trademark Office under 37 CFR § 1.181(a) to withdraw a the Notice of Abandonment dated 14 March 2005 mailed in connection with the patent application identified above and reissue the Notice of Allowance issued for the subject application on 3 November 2004. In the alternative, applicants petition that the present application be revived under 37 CFR § 1.137 (a) or (b) because it was unavoidably/unintentionally abandoned.

The facts on which the present petition is based are set out below. On 11 February 2002, applicants submitted an "Associate Power of Attorney" in which the correspondence address for the subject application was changed to "David A. Kalow,

Esq., Kalow & Springut LLP, 488 Madison Avenue, 19th Floor, New York, NY 10022". The Associate Power of Attorney was signed by the then attorney-of-record Robert G. Weilacher, Esq. The Associate Power of Attorney and the accompanying transmittal communication are each stamped received by the Patent Office on 26 February 2002 and stamped received by "TC 1700" on 5 March 2002. See exhibit A attached hereto. The PAIR system of the Patent Office reflect receipt of these documents also.

On 3 November 2004 a Notice of Allowance was issued for the subject application. Unfortunately, this Notice was erroneously sent to the prior correspondence address, despite the receipt of the Associate Power of Attorney by the Patent Office over 2 year earlier. See Exhibit B. On 14 March 2005 a Notice of Abandonment was issued for the subject application for failing to timely pay the required issued fee. This Notice was also erroneously sent to the prior correspondence address. See Exhibit C.

During a routine docket check conducted at the end of June through mid-July of this year the files maintained by Kalow & Springut LLP for the subject application were checked against the PAIR system of the Patent Office. It was during this docket check that the issuance of the above-referenced Notices were discovered by the undersigned attorney. Based on the firm's records, Kalow & Springut LLP has not received either the Notice of Allowance dated 3 November 2004 or the Notice of Abandonment dated 14 March 2005 prior to the docket check in June/July 2005. After investigating the matter and having a discussion with the Examiner, the present Petition was prepared.

It is submitted that the above remarks and the accompanying documents demonstrate the Patent and Trademark Office did receive a proper Associate Power of Attorney changing the correspondence address and that the subsequent Notice of Allowance and Notice of Abandonment were erroneously sent to the incorrect address. Accordingly, the Notice of Abandonment of 14 March 2005 was not justified and withdrawal of the notice and reissuance of the Notice of Allowance is therefore

respectfully solicited.

No fee is believed to be due for lodging the present petition under 37 CFR 1.181(a). If any fee is in fact due, please charge the amount of such fee to deposit account No. 11-0171.

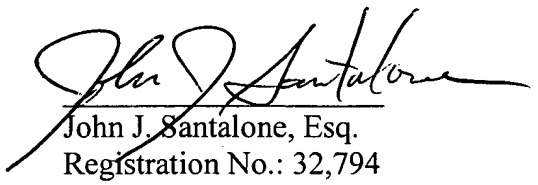
For the reasons set forth above, it is submitted that favorable action on the present petition and withdrawal of the notice of abandonment is warranted. If, however, the Notice of Abandonment is not withdrawn, Applicants petition that the present application be revived because it was unavoidably/unintentionally abandoned. It is submitted that the above remarks and accompanying documents demonstrate that the application was unavoidably/unintentionally abandoned and that applicants acted promptly once the abandonment was discovered. The entire delay in filing a response to the 3 November 2004 Notice of Allowance, from the due date of the response (3 February 2005) to the date of submission of the present petition, was unavoidable and unintentional.

Accompanying the present petition is completed Part B – Fee(s) Transmittal form PTOL-85 for the present application, in which authorization is given to charge the issue fee and publication fee for the present application to Deposit Account No. 11-0171.

Applicants believe that even if the present petition is treated as a Petition to Revive an Unintentionally Abandoned Application, no fee is due since the abandonment was not the fault of the applicants. However, if a petition fee is deemed to be required, please charge Deposit Account No. 11-0171 for such sum accordingly.

If the Office has any questions regarding the present application, you are cordially invited to contact Applicants' attorney at the telephone number provided below.

Respectfully submitted,



John J. Santalone, Esq.
Registration No.: 32,794
Attorney for Applicant

Kalow & Springut LLP
Telephone No.: (212) 813-1600

1762

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Koehler, et al.

Serial No.: 09/973,193 Patent No.:

Date Filed: Issued Date:

Title: Method for the Manufacture of a Membrane Electrode Unit for Fuel Cells

February 11, 2002

Assistant Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL OF ASSOCIATE POWER OF ATTORNEY

Sir:

Enclosed is an Associate Power of Attorney for the above-identified patent application. It is respectfully requested that the enclosed Associate Power of Attorney be entered into the file for the matter identified above and that the identified attorneys of Kalow & Springut LLP be established as the attorneys of record with all the powers described.

Please direct all future correspondence to:

David A. Kalow, Esq.
Kalow & Springut LLP
488 Madison Avenue, 19th Fl
New York, NY 10022

Respectfully submitted,

William D. Schmidt
Registration No.: 39,492
Attorney for Applicant(s)

Certificate of Mailing Under 37 C.F.R. 1.8
I hereby declare that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C.
Date: 2/11/02 Name:

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Smith, Gambrell & Russell, LLP
Suite 800
1850 M Street, N.W.
Washington, D.C. 20036

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

ASSOCIATE POWER OF ATTORNEY

SIR:

The undersigned agent, being an Agent of Record for the referenced patent applications and issued patents in attached appendix A, hereby appoints David A. Kalow, Reg. No. 29,397; Milton Springut, Reg. No. 27,721; John J. Santalone, Reg. No. 32,794; J. David Ellett, Jr., Reg. No. 27,875; Gary Molnar, Reg. No. 30,299; Scott D. Locke, Reg. No. 44,877; William D. Schmidt, Reg. No. 39,492; Tor E. Smeland, Reg. No. 43,131; and Sylvia Chiou, Reg. No. 47,324, each of them c/o KALOW & SPRINGUT LLP, 488 Madison Avenue, 19th Floor, New York, NY, 10022, as Associate Attorneys with full power of substitution and revocation, to prosecute these patents and patent applications listed in attached appendix A, to make amendments and alterations therein, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please address all future communications to:

David A. Kalow
Kalow & Springut LLP
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New York, NY, 10022
(212) 813-1600
Fax: (212) 813-9600

Respectfully submitted,

Date January 25 2002

by _____

Robert G. Weilacher
Registration No. 20,531
Agent for Applicant

Appendix A

Serial No.	Patent No.	Inventors	Title	Date Filed	Date Issued
09/852151			Honeycomb body of ceramic material with improved radial compressive strength		
09/844677			Gas distribution structures and gas diffusion electrodes for polymer electrolyte fuel cells		
09/813933			Method for the partial coating of a supporting body	03/22/01	
09/566981			Method for catalytic conversion of carbon monoxide in a gas mixture containing hydrogen, with improved cold start behavior and catalyser for same	05/09/00	
09/850410			Method for the removal of nitrogen oxides and soot particles from lean exhaust gas of a combustion engine and emission control system for same		
09/838119			Method and catalytic converter for reduction on nitrogen oxides		
09/878174			Process for manufacturing plates and expanded metal grids from refractory metals coated on one side with platinum		
60/213246			Process for manufacturing plates and expanded metal grids from refractory metals coated on one side with platinum		
09/832332			Method for checking the functional serviceability of a nitrogen oxide storage catalytic converter in various temperature ranges	04/11/01	
09/568814			Method for catalytic conversion of carbon monoxide in a gas mixture containing hydrogen	05/11/00	
09/910959			Precious metal-nanoparticle, method for its manufacture and use		
09/832301			Process for the preparation of a vanadia SCR-catalyst supported on titania	04/11/01	
09/853902			Method for autothermal, catalytic vapour-free formation of hydrocarbons	05/20/00	
09/855743			Method for operating an emission control device in a spark-ignition engine		
09/931162			Oxygen-storing material based on ceroxide, method for its manufacture and use		

Serial No.	Patent No.	Inventors	Title	Date Filed	Date Issued
09/907961			Membrane electrode unit for polymer electrolyte fuel cells and method for its manufacture		
09/927885			Method for the manufacture of a metal composite membrane, metal composite membranes manufactured in that way and its use		
09/973193		Kohler, et al.	Method for the manufacture of a membrane electrode unit for fuel cells		
09/977253		Beller, et al.	Palladium complexes and their use in the manufacture of biarylenes		
09/978792		Singer, et al.	Method for the manufacture of tubular structural parts with radial wave-shaped cambers, made from PGM materials		
09/985954		Pfeifer, et al.	Emission control system for the selective catalytic reduction of nitrogen oxides under lean exhaust gas conditions and method of emission control		
60/268718			Three-dimensional, catalytic converter nets knitted in two or three layers for gas reactions	02/15/01	
06/415635	4450244	Domesle, et al.	Catalyst for the combustion of harmful substances contained in exhaust gases of internal combustion engines operated with alcohol and process for the production of the catalyst	09/07/82	05/22/84
06/434806	4455393	Domesle, et al.	Catalyst for reducing the ignition temperature of diesel soot and process for making the catalyst	10/18/82	06/19/84
06/542313	4477417	Domesle, et al.	Catalyst for reducing the ignition temperature of diesel soot	10/14/83	10/16/84
06/521292	4515758	Domesle, et al.	Process and catalyst for the reduction of the ignition temperature of diesel soot filtered out of the exhaust gas of diesel engines	08/08/83	05/07/85
06/709261	4588707	Domesle, et al.	Catalyst for the reduction of the ignition temperature of diesel soot filtered out of the exhaust gas of diesel engines	03/07/85	05/13/86
07/147603	4828807	Domesle, et al.	Method for the purification of exhaust gas from diesel motors	01/22/88	05/09/89
07/248355	4900517	Domesle, et al.	Apparatus for the purification of exhaust gas from diesel motors	09/23/88	02/13/90
07/105366	4749594	Malikowski, et al.	Method for coating surfaces with hard substances	10/07/87	06/07/88
07/263701	5013705	Koberstein, et al.	Platinum-free three-way catalyst	10/28/88	05/07/91

Serial No.	Patent No.	Inventors	Title	Date Filed	Date Issued
07/263695	5001103	Koberstein, et al.	Rhodium-free three-way catalyst	10/28/88	03/19/91
07/559095	5073532	Domesle, et al.	Catalyst for purifying exhaust gases from internal combustion engines and method of making the catalyst	07/30/90	12/17/91
07/738434	5127960	Dittrich, et al.	Method for removing washcoat remaining in the channels of freshly coated monolithic or honeycombed catalyst carriers	07/31/91	07/07/92
07/305396	5070893	Dittrich, et al.	Apparatus and method for removing washcoat remaining in the channels of freshly coated monolithic or honeycombed catalyst carriers and use of the apparatus	02/02/89	12/10/91
07/376579	4980243	Malikowski, et al.	Direct bonding of ceramic parts by a silver alloy solder	07/07/89	12/25/90
07/402619	5045521	Lox, et al.	Catalyst for the purification of exhaust gases of internal combustion engines with reduction of hydrogen sulfide emission	09/05/89	09/03/91
07/345721	4963521	Engler, et al.	Exhaust-gas catalyst with reduced tendency to store sulfur oxides and to emit hydrogen sulfide and process for preparing the catalyst	05/01/89	10/16/90
07/404949	4987112	Engler, et al.	Catalyst to eliminate noxious substances contained in the exhaust gases of predominantly alcohol fueled internal combustion engines, a process for its preparation, and uses	09/05/89	01/22/91
07/471486	5024985	Koberstein, et al.	Support material for three-way catalysts containing platinum group metal and having reduced tendency for H_2S emission	01/29/90	06/18/91
07/510266	5043311	Engler, et al.	Monolithic or honeycomb-type catalyst	04/19/90	08/27/91
07/556097	5120695	Blumrich, et al.	Catalyst for purifying exhaust gases from internal combustion engines and gas turbines operated at above the stoichiometric ratio	07/23/90	06/09/92
07/928050	5514354	Domesle, et al.	Method for using a catalyst to purify exhaust gases from a diesel engine	08/11/92	05/07/96
07/667211	5157007	Domesle, et al.	Catalyst for purification of exhaust gases of diesel engines and method of use	03/11/91	10/20/92
07/661313	5165970	Schmidt, et al.	Method of coating honeycomb bodies with finely divided solid matter	02/27/91	11/24/92
07/658280	5179059	Domesle, et al.	Catalyst for purifying the exhaust gases of internal combustion engines and method for making the catalyst	01/31/91	01/12/93
07/658476	5139993	Schmidt, et al.	Method of improving the thermal shock behavior of monolithic catalysts	01/31/91	08/18/92

Serial No.	Patent No.	Inventors	Title	Date Filed	Date Issued
07/851020	5268157	Blass, et al.	Process for the production of catalytic gas permeable nets and process for oxidizing ammonia	03/13/92	12/07/93
08/017058	5496788	Domesle, et al.	Coating dispersion for exhaust gas catalysts	02/12/93	03/05/96
08/016,572	5958929	Bacon et al.	6-aryl pyrazolo [3,4-D] pyrimidin-4-ones and compositions and methods of use thereof	1/30/98	09/28/99
08/026127	5354720	Leyrer, et al.	Reduction in the quantity of NO_x in lean exhaust gas of motor vehicle engines	03/04/93	10/11/94
08/102784			Method for catalytic emission control using improved cold start method	08/06/93	
08/115001	5352542	Voelcker, et al.	Use of silver alloys as cadmium-free brazing solder	09/01/93	10/04/94
08/283919	5531962	Weise, et al.	Cadmium-free silver alloy brazing solder, method of using said solder, and metal articles brazed with said solder	08/03/94	07/02/96
08/114615	5341981	Weise, et al.	Use of a cadmium-free silver alloy as brazing solder (III)	09/01/93	08/30/94
08/130132	5446006	Domesle, et al.	Monolithic catalyst with a metal carrier	10/04/93	08/29/95
08/226048	5431745	Koschlig, et al.	Solder suspension for the application of thin layers of solder to substrates	04/11/94	07/11/95
08/273742	6299835	Weise, et al.	Cadmium-free silver alloy as low-melting brazing filler material	07/12/94	10/09/01
08/277631	5534129	Hoffacker, et al.	Cyanidic-alkaline baths for the galvanic deposition of copper-tin alloy coatings, uses thereof, and metallic bases coated with said copper-tin alloy coating	07/20/94	07/09/96
08/413943	5628925	Domesle, et al.	Process for manufacturing a coated, monolithic metal support	03/30/95	05/13/97
08/542124	5643542	Leyrer, et al.	Process for simultaneously reducing the amounts of hydrocarbons, carbon monoxide and nitrogen oxides contained in the exhaust gas from an internal combustion engine	10/12/95	07/01/97
08/498060	5707574	Domesle, et al.	Method for the unilateral or bilateral sealing or filling of flow channels in an annular zone of a cylindrical honeycomb body	07/05/95	01/13/98
08/324140	5489563	Brand, et al.	Platinum alloy catalyst for fuel cells and method of its production	10/17/94	02/06/96
08/594143	5798468	Weise, et al.	Sintering material containing silver-tin oxide for electrical contacts and process for its manufacture	01/31/96	08/25/98

Serial No.	Patent No.	Inventors	Title	Date Filed	Date Issued
08/892104	5900386	Freund, et al.	Shell catalysts, processes for their preparation and their use	07/14/97	05/04/99
08/624806	5620583	Kuhn, et al.	Platinum plating bath	03/27/96	04/15/97
08/828146	6073467	Blass, et al.	Catalyst gauzes for gaseous reactions	03/24/97	06/13/00
08/646394	5767036	Freund, et al.	Platinum-aluminum alloy catalyst for fuel cells and method of its production and use	05/08/96	06/16/98
08/698857	5730931	Poniatowski, et al.	Heat-resistant platinum material	08/16/96	03/24/98
08/751935	5841044	Weise, et al.	Silver-iron material for electrical switching contacts (I)	11/19/96	11/24/98
08/723549	5852768	Jacobsen, et al.	Process for producing precious metal powders	09/30/96	12/22/98
08/822864	5861222	Fischer, et al.	Gas diffusion electrode for membrane fuel cells and method of its production	03/24/97	01/19/99
08/838846	5928981	Leyrer, et al.	Diesel catalytic converter	04/11/97	07/27/99
08/751934	5728194	Weise, et al.	Silver-iron material for electrical switching contacts (III)	11/19/96	03/17/98
08/806725	5985440	Weise, et al.	Sintered silver-iron material for electrical contacts and process for producing it	02/27/97	11/16/99
09/180112	6220022	Muller, et al.	Catalyst system for the treatment of exhaust gases from diesel engines	08/04/99	04/24/01
09/043416	6165342	Kuhn, et al.	Cyanide-free electroplating bath for the deposition of gold and gold alloys	06/02/98	12/26/00
08/996215	6001318	Tillaart, et al.	Process for lowering nitrogen oxide levels in combustion engine exhaust gas	12/22/97	12/14/99
09/056641	6180075	Lindner, et al.	Exhaust gas catalyst	04/08/98	01/30/01
09/080468	6007934	Auer, et al.	Co-tolerant anode catalyst for PEM fuel cells and a process for its preparation	05/19/98	12/28/99
09/340407			Co-tolerant anode catalyser for PEM fuel cells and method for its manufacture	06/28/99	
09/070784			Emission control system for diesel engines	05/01/98	
09/078597	5934073	Gieshoff, et al.	Auxiliary heating for motor vehicles with internal combustion engines	05/14/98	08/10/99
09/578703			Emission control catalytic converter with improved conversion of hydrocarbons	05/26/00	
08/967984	6080375	Mussmann, et al.	Exhaust gas purification catalyst with improved hydrocarbon conversion	11/12/97	06/27/00
08/987061	5984161	Koch, et al.	Flux-encased resilient solder preforms and process for the preparation thereof	12/08/97	11/16/99

Serial No.	Patent No.	Inventors	Title	Date Filed	Date Issued
09/055908	6103660	Yperen, et al.	Method of depositing catalytically active components on high-surface area support materials	04/07/98	08/15/00
09/056795			Oxygen-storing material with high temperature stability and method for its production	04/08/98	
09/381269	6207300	Koch, et al.	Soldering paste for producing geometrical metal structures with precise contours	12/08/99	03/27/01
09/227589	6171565	Hohne, et al.	Process for the operation of a nitrogen oxides storage catalyst	01/08/99	01/09/01
09/345787			Catalytic converter for the reduction of nitrogen oxides in oxidizing and reducing atmospheres	07/01/99	
09/078415	6089015	Strehlau, et al.	Method of purifying a lean exhaust gas and catalytic system therefor	05/14/98	07/18/00
09/115553			Brazing paste for coating and brazing of aluminum and aluminum alloys	07/15/98	
09/100251			Emission control catalytic converter for combustion engines with two catalytically-active layers on a supporting body	06/19/98	
09/276131	6145303	Strehlau, et al.	Process for operating an exhaust gas treatment unit containing a sulfur trap and a nitrogen oxides storage catalyst	03/25/99	11/14/00
09/159235	6117301	Freudenberger, et al.	Electrolyte for the galvanic deposition of low-stress, crack-resistant ruthenium layers	09/23/98	09/12/00
09/205280			Method for the production of a catalytic converter	12/04/98	
09/212474	6077489	Klein, et al.	Oxidation catalyst for internal combustion engines	12/16/98	06/20/00
09/299630	6238525	Lox, et al.	Process for reducing the nitrogen oxides content of exhaust gas from an internal combustion engine	04/27/99	05/29/01
09/824185			Process for manufacturing powdery heterogeneous materials	04/03/01	
09/309504	6228292	Foerster, et al.	Process for the preparation of pulverulent heterogeneous substances	05/11/99	05/08/01
60/105392			Process for manufacturing powdery heterogeneous materials	10/23/98	
09/529972			Hard solder paste, free of fluxing agent	09/02/98	
09/442633			Catalytic converter for emission control of a diesel engine	11/18/99	
08/859853			Method of making metallic powders by aerosol thermolysis	05/21/97	

Serial No.	Patent No.	Inventors	Title	Date Filed	Date Issued
09/493288			Use of gas discharge components for the generation of ammonia with the aim of NO_x reduction in lean exhaust gas	1/28/00	
09/757581			Use of gas discharge components for the generation of ammonia with the aim of NO_x reduction in lean exhaust gas	1/11/01	
09/859680			Method for obtaining electrical energy with the aid of a fuel cell	05/18/01	
09/274018	6309772	Zuber, et al.	Membrane-electrode unit for polymer electrolyte fuel cells and processes for their preparation	03/22/99	10/30/01
09/289604	6146782	Wendt, et al.	Fuel cell anode for the oxidation of methanol	04/12/99	11/14/00
09/276903			Storage material for sulphur oxide	03/26/99	
09/146436	6149973	Foerster, et al.	Process for the coating of the flow channels of a honeycomb form catalytic converter carrier with a dispersion coating	09/03/98	11/21/00
09/851417			Structured catalytic converter for the selective reduction of nitrogen oxides by means of ammonia using a compound which can be hydrolyzed to ammonia	05/09/01	
09/288075	6216449	Strehlau, et al.	Process for evaluating performance deterioration of a nitrogen oxide storage catalyst	04/08/99	04/17/01
08/804515	5916128	Garr, et al.	Sound deadening and catalyst treating system	02/21/97	06/29/99
60/099661			Nitrogen oxide storage material and the nitrogen oxide storage catalytic converter produced therefrom	09/09/98	
09/378693			Nitrogen oxide storage material and the nitrogen oxide storage catalytic converter produced therefrom	08/23/99	
09/376438	6156449	Zuber, et al.	Catalyst layer for polymer electrolyte fuel cells	08/18/99	12/05/00
09/377157			Method for coating the flow channels of a monolithic catalytic converter with a coating dispersion	08/19/99	
09/418556	6165635	Auer, et al.	Pt/Rh/Fe alloy catalyst for fuel cells and a process for producing the same	10/14/99	12/26/00
09/340197			Method for applying electrode coatings on a ribbon-shaped polymer electrolyte membrane	06/28/99	
09/648343			Electrocatalyser for fuel cells	8/25/00	
09/513341			Catalytic converter material and method and its manufacture	02/25/00	

Serial No.	Patent No.	Inventors	Title	Date Filed	Date Issued
09/576069			Method and device for the removal of soot from the exhaust gas of a diesel engine	05/22/00	
09/643876			Cadmium-free brazing alloys		
09/565482			Flux for brazing difficult-to-wet metal workpieces	05/05/00	
09/409744	6294140	Mussmann, et al.	Layered noble metal-containing exhaust gas catalyst and its preparation	10/01/99	09/25/01
09/413878			Catalyser for vapour-free formation of alcohols	10/7/99	
09/693835			Method for plasma-catalytic generating of ammonia	10/23/00	
09/842321			Method for the removal of nitrogen oxides from an exhaust gas flow containing oxygen	04/26/01	
09/809355			Method for checking the functional serviceability of an exhaust gas catalytic converter	03/16/01	
09/818998			Single layer high performance catalyst	03/28/01	
09/789718			Catalytic converter for emission control of diesel engines and method for its manufacture	02/22/01	
09/825363			Method for the manufacture of composite powders based on silver-tin oxide and their use in the manufacture of materials for contacts		
09/712186			Method for the production of nitrogen oxide storage material and the storage material produced therewith	11/15/00	
09/745,176		Linder et al.	Emission control catalytic converter for mounting close to engines and method for its manufacture		
09/745176			Method for coating a ceramic honeycomb body	12/22/00	
09/915764			Ink for the production of membrane electrode units for PEM fuel cells		

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 11/03/2004

SMITH, GAMBRELL & RUSSELL, LLP
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WASHINGTON, DC 20036

EXAMINER	
KALAFUT, STEPHEN J	
ART UNIT	**PAPER NUMBER**
1745	

DATE MAILED: 11/03/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,193	10/10/2001	Joachim Kohler	33766W046	4504

TITLE OF INVENTION: PROCESS FOR PRODUCING A MEMBRANE ELECTRODE ASSEMBLY FOR FUEL CELLS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1370	$300	$1670	02/03/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 11/04) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 11/03/2004

SMITH, GAMBRELL & RUSSELL, LLP
ATTORNEYS AT LAW
SUITE 800
1850 M STREET, N.W.
WASHINGTON, DC 20036

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,193	10/10/2001	Joachim Kohler	33766W046	4504

TITLE OF INVENTION: PROCESS FOR PRODUCING A MEMBRANE ELECTRODE ASSEMBLY FOR FUEL CELLS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1370	$300	$1670	02/03/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
KALAFUT, STEPHEN J	1745	427-115000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

S.L

Notice of Allowability	Application No. 09/973,193	Applicant(s) KOHLER ET AL.	
	Examiner Stephen J. Kalafut	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *applicant's paper of 18 August 2004*.

2. ☒ The allowed claim(s) is/are *1-21*.

3. ☒ The drawings filed on *10 October 2001* are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

The following is an examiner's statement of reasons for allowance: The terminology "at least 130 °C" is permissible, because the present specification, the value of 130 °C is exemplary, which implies that values both above ("at least") and below this value are within the purview of the invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjk

STEPHEN KALAFUT
PRIMARY EXAMINER
GROUP 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,193	10/10/2001	Joachim Kohler	33766W046	4504

7590 11/03/2004

SMITH, GAMBRELL & RUSSELL, LLP
ATTORNEYS AT LAW
SUITE 800
1850 M STREET, N.W.
WASHINGTON, DC 20036

EXAMINER	
KALAFUT, STEPHEN J	

ART UNIT	PAPER NUMBER
1745	

DATE MAILED: 11/03/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 517 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 517 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 11/04) Approved for use through 04/30/2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,193	10/10/2001	Joachim Kohler	33766W046	4504

7590 03/14/2005

SMITH, GAMBRELL & RUSSELL, LLP
ATTORNEYS AT LAW
SUITE 800
1850 M STREET, N.W.
WASHINGTON, DC 20036

EXAMINER	
KALAFUT, STEPHEN J	

ART UNIT	PAPER NUMBER
1745	

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09973193			

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

- ☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed reply was received on _____ , but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
  (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on _____ , but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.

☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

- ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of $_____ is insufficient. A balance of $ _____ is due.
  The issue fee by 37 CFR 1.18 is $_____. The publication fee, if required, by 37 CFR 1.18(d) is $_____.
- ☒ The issue fee and publication fee, if applicable, have not been received.

☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

- ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.